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Memorial Dedication Russell W. Galloway, Jr. 1940-1992

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MEMORIAL DEDICATION

**RUSSELL W. GALLOWAY, JR.
1940-1992**

On February 4, 1992, friends, students and colleagues mourned the loss of Russell W. Galloway, Jr., one of Santa Clara University School of Law's most respected professors. Because of his many contributions to Santa Clara University and to the legal community as a whole, the Board of Editors wishes to dedicate Volume 32 of the Santa Clara Law Review to his memory. He will be greatly missed.

LAST LECTURE*

"When you are brought into the Bar, you will have to take an oath to support and defend the Constitution. I want you to take this oath seriously.

"You have been studying Constitutional Law for several years. Now, you know a lot about it. It's going to be your sworn duty to defend and protect the Constitution of the United States. This is not going to be an easy job. We are living in a period of impatience with constitutional limits and constitutional restraints, in a time when people are frightened because of the complexity of society, the overpopulation and diversity, problems of crime, erosion of government. People are frightened. They want somebody to protect them. And, they don't like limits on government power.

"People have the delusion, and it is a delusion, that if the government is given unlimited power, it will protect them and provide security. That is false. It is a major mistake to eradicate constitutional limits and constitutional liberties in or to seek the delusion of security which will never emerge at the other end of the tunnel.

"So as you protect constitutional liberties and defend the Constitution, you are going to be in the minority. The position you take is going to be unpopular. People are going to be impatient with you. Accuse you of being a logic-chopping lawyer who doesn't understand the realities.

"But I would urge you to take the oath seriously. You are now trained in the theory of constitutional liberties. I hope at this point you understand some of the history and background and why these liberties are important. The only group that can hold the line against the majoritarian desire to repeal the Constitution is the Bar, because the members of the Bar are the only people who are trained in the theory of constitutional liberties and how those liberties are enforced, and who have the expertise to explain why we have to stick with them, and explain how they work, and hopefully put the fears of the public to rest.

* Editorial Note: At the end of each semester's Constitutional Law class, Russell Galloway made this special statement. It was recorded and transcribed by a student, Leslie Carin, in December, 1988.

“So my final word is, Defend the Constitution, take that oath seriously, find some way that you can join the fight and prevent us from moving into a situation where we have a totalitarian government that really operates independently, without constitutional restrictions.

“I definitely have enjoyed doing business with you. It is the end of a long, tough road. I hate to tell you that you are just actually at the beginning of that road. These little pieces of information that we have learned together are only an introduction to the monumental area of Constitutional Law. I hope you walk down that road. Do it with courage and boldness. And I hope you have a terrific life.”

RUSSELL GALLOWAY: BUILDER OF FIRES

Dean Gerald Uelmen*

"Of all I've done, what will remain?
At the end of life, only love remains."

These words are the refrain of one of my favorite hymns. They echoed in my brain on Tuesday, February 4, as I drove back to Santa Clara. I was returning to the Law School after visiting with Russ' wife Nancy, his children, and the many neighbors and friends who filled his home on the day after he died. I felt as if his home were aglow with the love that Russ left behind, and I left with that glow in my own heart. And I know that glow will always be there.

It's easy, living a life in the law, to delude yourself with the seeming permanence of your handiwork. I don't think Russ suffered from any such delusions. He realized that everything that was done could be undone, and what was undone could be done over. As a scholar, he gloried in tracking the pendular shifts of judicial philosophy on the U.S. Supreme Court. As an advocate, he knew precisely where to push and when to pull. But as a person, Russ knew that the only way to really keep the spirit of liberty alive was to light some soul fires. Watching Russ teach was like watching someone start a fire without matches . . . seeing the friction create sparks, gently blowing on the sparks until flames emerged from the tinder, guarding the flame from the wind until it grew large, then adding the kindling. Learning how much Russ enjoyed camping and fishing seemed to fit right in with my image of Russ as a teacher. In a classroom filled with a hundred students, he could make each of them feel as though he were speaking directly to them, across the dancing flames of a campfire.

For Russ, teaching was an act of love, a total giving of himself to his students. He didn't hold anything back. His compassion, his gentleness, his anger, his commitment, his insight—he gave it all. There was seldom any mystery about who were the heroes in Russ' galaxy, and who were the villains. Russ did not view education as a value-free enterprise. He

* Dean, Santa Clara University School of Law.

challenged his students not just to think, but to stand on principles, and to act on them. Russ inspired his students because they knew his passion was sincere, and his sincerity was genuine.

Many students have told me that the most inspiring moment in their entire law school education came at the end of Russell Galloway's course in constitutional law, when he put the casebook aside and spoke from his heart. We are grateful that one of those students taped and transcribed his words in December of 1988. We're going to mount those words on a wall of our library, next to a portrait of Russ, so that generations of students to come can continue to be inspired by them. These words will keep our soul fires burning. At the end of life, only love remains.

REMEMBERING RUSS GALLOWAY

Howard C. Anawalt*

In the spring of 1989 Russ and I were having a conversation, and he urged me to attend the last week of Supreme Court oral arguments with him. So we made our plans. Our week was to be the week that the very controversial *Webster*¹ case was to be argued. That case had been built up in the press and in the public as one which might overturn *Roe v. Wade*, so people were converging on Washington, D.C. from all over the country.

The night before the arguments, Russ and I had an early spaghetti dinner. Then we walked over to the Court shortly before 10:00 p.m. to see what was happening. A handful of people were lined up in the Supreme Court Bar line, and a goodly number of people were getting settled in sleeping bags in the general public line.² I had a hotel room a short walk from the Court, and I convinced Russ that we should go back and get some rest. We negotiated a time when we would return to the Court—2:30 a.m., as I recall. I am sure he let me have no more than an hour of sleep, though, because sometime shortly after midnight he was hauling me out of bed, and we were off to the Court.

We walked back chatting under the night sky. There was lots of excitement and speculation in the air. At the Court we met our handful of earlier attorney acquaintances. We also saw that the public admission line had indeed grown very long. We spent hours walking about, chatting with people, getting their reactions, discussing with pro-choice and right-to-life proponents alike.

At 4:30 a.m. a cab rolled up in front of the Court, and a very happy-go-lucky fellow popped out, bristling with cameras and tape recorders. This was our (soon to be) new friend, Jim Cohen. Together we bustled about, taking in more of the growing excitement around the Court, stirring up friendly

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1. *Webster v. Reproductive Health Servs.*, 109 S. Ct. 3040 (1989).

2. The members of the Supreme Court Bar are entitled to sit in the attorney's section of the courtroom. We would be entitled to sit in that section. The rest of the public must sit "behind the bar" in the courtroom.

banter, snapping pictures and bits and pieces of sound. Around 6:00 a.m., Russ and I took off to buy a round of coffee and donuts for our co-watchers of the early morning hours.

I was well acquainted with Russ' devotion to the Constitution and his commitment to understanding the way the Justices interpret it, but during that trip I learned more about how he liked to go about his work. During a sabbatical in 1986, he went to each session of the Supreme Court's oral arguments. We talked about that experience and related it to what we were observing during this week together. In addition to talking, I could observe his care and genuine pleasure with what he was doing. "I don't need to be paid for this, Howard. I love this stuff."

I saw his attention to detail, care about social consequences, politeness, and joy at the events whirling around us. In the early morning hours, one of our companions had been an east coast attorney who had filed a brief for the "right-to-life" side. (Russ certainly held the opposite view on that matter!) Russ enjoyed a real pleasure of friendliness with this man. He was, after all, a genuine colleague for Russ—a man who volunteered, who cared, who took enthusiasm to his work. And he enjoyed Russ, captivated, no doubt, by the kind humanity Russ expressed from his first arrival right through the post-dawn donuts.

Each of the subsequent years we went to the last week of argument together. At these times, Russ would take copious notes throughout the argument, counting up the number and type of question asked by each Justice. At lunch we would go over our observations, and Russ would quiz me about his concerns. We planned it again for this year. But then the deep and sudden shock of his illness and death took those plans away.

As I jot down these notes, I realize the loss and shock of it are shared by so many, by his colleagues and above all by his students. He has inspired me and inspires me now. I have fond memories, too few, too short—but good memories. Colleagues and students, friends, and family have their lovely memories of Russ. He expressed passion for justice. He focused attention on his work. He cared for individuals. He inspired others. I have been fortunate to have had these gifts from Russ, and I wish to say, "Thank you."

LAST MEMORIES

Paul J. Goda, S.J.*

My last memory of seeing Russ is a poignant one. I was speaking with one of the library staff, whose wedding I had witnessed and whose two children I had baptized, on the day that Russ announced his illness to his classes, unbeknownst to us. Mary told me of a question posed to her by her son while she was driving on the freeway, the place and time so out of context with the profundity of the question, as is the habit with children.

She was asked, "Mommy, why do people like you and daddy have to die?" As Mary and I both joked and reflected on the question, Russ came in to get his mail just after class. I suggested to Mary that she tell Russ what she had told me. Russ listened and smiled softly in that kindly way of his and left. Fifteen minutes later, Herman Levy asked me if I had heard what Russ had just told his classes. I said no and found out.

I never saw Russ again, but I had to reflect that Russ' reaction was in accord with his life—gentle and kind, a bit wry, but with a wryness that shone with his kindness. His strength was immense and hidden as I discovered on serving with him on the Faculty Minority Committee. But his kindness was in-born and obvious, reflecting out of him with light and warmth, touching all those who met with him. I shall miss him . . .

* Professor of Law, Santa Clara University School of Law.

A TRIBUTE**George J. Alexander***

I am inclined to say that Professor Galloway was an amazing person, but that would not really be correct. He was an amazing group of people!

One of the people he was, was an exceptionally gifted teacher who had a Pied Piper effect on students. His courses drew students from courses that others taught and they never returned. Apparently he had the same effect at the University of San Francisco when he visited.

What was particularly magnetic about his classes was that his energy and zeal were so openly demonstrated. For him a course in constitutional law was a course bringing back liberal virtues to a conservative bastion. Amazingly, many among the mesmerized didn't agree with his politics at all. But none could resist the clear honesty of his convictions.

He did not compromise with life or with the Court. Consequently, his classes were far more result-oriented than others'. Nevermind all that theoretical analysis and synthesis, let me organize the decisions for you, give you the outline and the buzz words and let's get on with getting better results!

When he was at school, he was available to everyone. He worked endlessly with his students and on his causes. The school's affirmative action program owes much of its accomplishments to his energy.

He wrote incessantly, not for the Major Law Reviews but for the editorial pages of the newspapers. That's where you influence people, he would tell me.

No one thought to comment on the fact that he was usually at school on the days he taught since he accomplished so much that it seemed like the product of more than his full time.

Not until his memorial service did I begin to understand. There were many Russ Galloways. There was the Galloway of the school whom I knew. There was also a Galloway in public interest law and his colleagues there seemed to have had a full-time collaborator as well. There was also a Russ Galloway

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the husband and father who seemed to have fully filled the lives of his loving family.

Russ Galloway studied for the ministry and for law and certainly found a way to combine them. For most of us it would be enough to live a life well spent. I'm sure Russ lived at least three.

THOUGHTS OF RUSS GALLOWAY**Monica J. Evans***

As I sit down to write this, I struggle with a sense that it may be presumptuous of me, having only recently joined the law faculty, to speak of Russ at all. There are others who knew and worked with him more closely than did I. I write this now as a means of acknowledging a debt which I did not have the opportunity to repay when he was alive. While our association as colleagues was brief, I am acutely aware that I am a beneficiary of his life and commitment, and I am haunted by the sense that I cannot repay the gift he has given me.

While I had already heard of this man who had captured the affection and admiration of my students and colleagues, I did not actually meet Russ until my first faculty meeting. As I was milling about before the meeting, struggling to remember the names of all those strangers, Russ welcomed me with a warmth and sensitivity that I will never forget. After a few words, he invited me to observe his class, as he was looking forward to sitting in on one of mine. My reaction to this was similar to the reaction I have when a friend says she's going to drop by my house: usually I say "How nice—please do!", while inwardly I think: "I'd better clean the house." Russ, who was so at home in his classroom and with his students, had no need to clean house before inviting me. He would have neither wanted nor expected any attempt on my part to clean up my act just to impress him: he had a gift, even then apparent to me, of recognizing the intrinsic worth of a person even if her house is not in perfect order.

Perhaps my most enduring memory of Russ comes from the faculty retreat in the Santa Cruz mountains this past autumn. All during the course of that afternoon Russ was an advocate for the untenured faculty. He spoke with quiet insistence of an obligation, grounded in fairness, to be clear in what is expected of us, and to provide the resources necessary to achieve those expectations. As I think back on his words, I realize that he was for the junior faculty what I must be for my students. And although I miss him, and it is obvious that my

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students miss him, it occurs to me that Russ has been observing my class all along, through their eyes.

Requiescat in pace.

MEMORIAL STATEMENT FOR PROFESSOR RUSSELL GALLOWAY

Margalynne Armstrong*

They said, "You have a blue guitar,
You do not play things as they are."
The man replied, "Things as they are
Are changed upon the blue guitar."
And they said then, "But play, you must,
A tune beyond us, yet ourselves,
A tune upon the blue guitar
Of things exactly as they are."¹

I think of Russ Galloway as a player of various blue guitars, a musician who saw the world and its people as they are, but always believed in what they could be. Although he could discern and analyze the workings of the Supreme Court or the law school with unsentimental clarity, Russ never faltered in his conviction that there exists an underlying justice that could one day become reality.

Russ was constant in his support of me (and his other junior colleagues). He read and critiqued my writing, looked over my course descriptions, shared his insights on the workings of academic politics and was always a true friend. We junior faculty were another group of learners to him, and Russ' unceasing generosity towards his students is legendary.

Russ saw us (all of his students in our diverse forms), yet beyond ourselves. He daily demonstrated his belief in our ability to become better people and create a better world. Russ' powerful faith in our potential remains a wonderful gift. It continues to sustain us as we move through the future. We are so grateful.

* Assistant Professor of Law, Santa Clara University School of Law.

1. *The Man with the Blue Guitar* in WALLACE STEVENS, *THE PALM AT THE END OF THE MIND, SELECTED POEMS* (Holly Stevens, ed. 1972).

TRIBUTE

Nancy Millich*

In the spring semester of my second year as a Santa Clara law student, I enrolled in a course in Criminal Procedure taught by a new Professor named Russell Galloway. As a part-time student, I was trying to coordinate the competing demands of full-time employment and raising four young daughters, and, although I had not heard of Professor Galloway, I took his class simply because the time it was offered fit into my schedule. It was not long before I realized I had made a very fortunate choice. Although it was only his second year of teaching, Russ had already developed the ability to describe "black letter law" clearly and concisely while simultaneously challenging his students to apply the law and the underlying policy implications to a variety of factual contexts. Although Russ' liberal perspective was clearly conveyed in his teaching, he was also very concerned with making sure that all of his students felt comfortable sharing their views in class, even if they were diametrically opposed to his own. I was so impressed with Russ' teaching style that I enrolled in his classes during each of my last two years in law school.

Four years after I graduated from the law school, I returned to Santa Clara as Placement Director, which gave me the chance to get to know Russ on a slightly more personal level. However, it was not until two years ago, when I started to teach law school on a full-time basis, that I had the opportunity to know Russ as a colleague. Russ was assigned to head my tenure-track committee. He sat in on my classes, he read drafts of articles I was writing and he was always available as a sounding board for my ideas and concerns. In addition to being a mentor, he was always there as a source of support and encouragement.

This spring, I felt a sense of life having come full circle when my daughter Stacy, who was only nine years old when I started law school, enrolled in Russ' Criminal Procedure class in the spring of *her* second year in law school. It is still hard to believe that only a few short weeks later, Stacy and I joined

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hundreds of other law students and faculty in saying a final goodbye to Russ. I was, of course, very sad for myself—I felt that Russ had filled many roles in my life—teacher, mentor, colleague, friend. But when I looked at Stacy, I knew that I was the lucky one. I had learned some of the lessons Russ taught so eloquently in his classes and in his life. Stacy, and other law students like her, would never have the chance.

